Court No.-1

Criminal Revision No. 21 of 2001

Praneet Bhatti ..... Revisionist.

Versus

State and another ..... Respondents.

Hon.P.C.Verma,J

This revision has been filed by the petitioner/ revisionist challenging the order dated 1.3.2001 passed by Sessions Judge, Dehradun in Session Trial No. 87 of 2000 State Versus Tejpal Bhatti. The date was fixed for framing of the charges, on the said date the defence counsel took objection before the Sessions Judge that the court has got no jurisdiction as the case related to the district Ghaziabad which is now in Uttar Pradesh and session division of Dehradun is not in Uttaranchal. The objection was rejected by the Sessions Judge on the ground that Session Court has jurisdiction in view of the order of the Hon'ble Supreme Court dated 28.11.2000 passed in Criminal Appeal No. 1931 of 2000 State Vs. Raj Singh . The learned counsel for the revisionist submitted before this court that from the perusal of the judgment passed by the Hon'ble Apex Court, it is clear that nothing has been said regarding the jurisdiction relating to the Session Trials. It was an appeal filed by the C.B.I. against the orders of the Allahabad High Court granting bail to the accused. The appeal of the C.B.I. has been dismissed.

The question arises in this revision is as to whether the Session Trial of an offence committed at Ghaziabad , investigated by C.B.I. can be tried by the Sessions Judge, Dehradun in view of the Notification No. 577/Admn.A-3 Dated l Allahabad 13.9.1999 issued by Allahabad High Court. The notification is reproduced below.

In exercise of the powers vested under section 11 (2) of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the High Court is pleased to appoint the officers mentioned in column No. 2 as Presiding Officer of the Special Court of Judicial Magistrate, First Class, mentioned in column No. 3 established by Government notification No. 4031/VII-A.N.739/87, dated February 6, 1990, read with Government notification No.925/VII-Nyaya-2-26G/95, dated 11.3.1996 to exercise jurisdiction in the local areas specified in column No. 5 to try or enquire into and to commit to the court of Sessions all such cases arising within the said local area in which investigation are made or chargesheet filed by the Special Police establishment constituted under the Delhi Special Police Establishment Act, 1946(Act No. XXV of 1946)

From the perusal of the above notification it is clear that the special court C.B.I has been given powers to try or enquire into and to commit to the court of Session all such cases arising within the said local areas mentioned in column No. 5 in which investigations are made or chargesheet filed by the C.B.I. In the present case Special Court hasbeen created at Dehradun and

district Ghaziabad has been included in the districts of local area.

At act to provide for reorganization of the existing State of Uttar Pradesh and for matters connected there with was enacted known as the Uttar Pradesh Re-organisation Act, 2000(herein after to be referred as the Re-organisation Act)

Section -3 of the Re-organisation Actprovides that o on and from the appointed day, there shall be formed a new State to be known as the State of Uttaranchal comprising the following territories of the existing State of Uttar Pradesh, namely;-

> Pauri Garhwal, Tehri Garhwal, Uttar Kashi, Chamoli, Dehradun, Almora, Nainital, Rudraprayag, Pithorag-arh Udhamsingh Nagar, Baheshwar , Champawat and Haridwar districts.

and thereupon the said territories shall cease to form part of the existing State of Uttar Pradesh. The appointment day is defined under section 2 (a), which means the day which the Central Government may, by notification in the Official Gazette, appoint. 9th Nov. was the appointed day fixed by the notification and from 9th November, 2000 the State of Uttaranchal has been formed and Dehradun falls within the State of Uttaranchal. The Re-organisation Act contains provisions necessary to give effect to the provisions of law and also contains supplemental , incidental and consequential provisions.

Relevant provisions for the purposes of determination of the question referred above are Sections 75,86 and 87. For convenience, these sections are quoted below

Section75 ;(1) Every person who, immediately before the appointed day is holding or discharging the duties of any post or office in connection with the affairs of the existing State of Uttar Pradesh in any area on on that day falls within any of the successor States shall continue to hold the same post or office in that successor State and shall be deemed , on and from that day, to have been duly appointed to the post or office by the Government of, or any other appropriate authority in that successor State;

provided that nothing in this section shall be deemed to prevent a competent authority, on and from the appointed day, from passing in relation to such person any order affecting the continuance in such post or office.

Section 86 ; The provisions of part II shall not be deemed to have affected any change in the territories to which the Uttar Pradesh Imposition of Ceiling of Land Holding Act, 1961 and any other law in force immediat-ely before the appointed day, extends or applies, and territorial references in any such law to the State of Uttar Pradesh shall, until otherwise provided by a competent Legislature or other competent authority be construed as meaning the territories within the existing State of Uttar Pradesh before the appointed day.

Section 87; For the purpose of facilitating the application in relation to the State of Uttar Pradesh or Uttaranchal of any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, making such adaption and modifications of the law , whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptions and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Section 87 empowers both the successors States for adaptions and modification of law by way of repeal or amendment as may be necessary or expedient and thereupon every such law shall have effect subject to the adaption and modifications so made until altered , repealsed or amendment by a competent authority before expiry of two years.

Section 2(f) of the Re-organisation Act, 2000 defines the law which is quoted below;

Law; Law includes any enactment, ordinance, regulation order, bye-law, rule scheme notification or other instrument having , immediately before the appointed day, the force of law in the whole or in any part of the existing State of Uttar Pradesh.

Therefore, the notification date 13.9.1999 is a a law which is in force and shall continue to operate till it is altered repealed or amended by a competent authority before the expiry or two years. Under this

notification, a court of Special Magistrate has been created to exercise jurisdiction in the local areas specified in column no. 5 to try or enquire into and to commit to the court of session all such cases within the said local areas in which investigation are made or chargesheet filed by the C.B.I. are to be tried by the Sessions Judge, Dehradun . Therefore, the Special Magistrate, Dehradun and the Sessions Judge, Dehradun are the persons to continue to discharge their duties of their offices in the successor State by virtue of Section 75 of the Re-organisation Act, as quoted above.

T he notification referred to above has not been altered, modified or amended by the competent authority and it still continues to remain in force.

Therefore, the notification issued by Allahabad High Court confirms the jurisdiction of the cases investigated by C.B.I. in all those districts mentioned in column 5 of the notification and the court of Special Magistrate created under the notification has the powers for for committal of the cases investigated by the C.B.I to the court of Session for its trial and the Sessions Judge, Dehradun has jurisdiction to try such cases.

For the reasons recorded above, the revision fails and is hereby dismissed.

No orders as to costs.

(P.C. Verma, J.)

R.P.Singh
13.3.2001